

Remarks

The examiner's reconsideration of the application is urged in view of the amendments above and comments which follow.

As explained to the examiner in a couple of telephone conversations since the issuance of the May 21, 2004 office action, apparently the Patent and Trademark Office did not properly enter the Amendment Accompanying the Application that was, of course, submitted with the application.

However, to compound errors, when the undersigned faxed that amendment to the examiner for entry in the application, a clerk of the Patent and Trademark Office improperly issued a Notice of Non-Compliant Amendment dated July 9, 2004. The undersigned responded on July 23, 2004 explaining that the amendment was totally compliant and the Patent and Trademark Office is in error, but as the undersigned learned when speaking with examiner Allen on August 23, 2004, apparently the July 23, 2004 response has not yet been scanned and entered into the PTO electronic system. Accordingly, this response is being submitted since, in any event, the issues concerning claim 1 must be addressed, and if claim 1 is allowable, then the remaining claims ought to be allowable, as well.

Thus, turning to the matters raised in the office action (other than the objections to claims 3-15), the examiner has noted a misspelling in claim 1, and that is corrected above.

Also in the office action, the examiner has rejected claims 1-15 under 35 U.S.C. Section 112 as being indefinite because of the phrase "such as a CCD array" in claim 1. That phrase has been deleted from claim 1, and new claim 16 has been added to claim that particular limitation. It is therefore submitted that claims 1-16 meet the requirements of 35 U.S.C. Section 112.

The examiner has rejected independent claim 1, and dependant claims 2 and 3, under 35 U.S.C. Section 103 as being unpatentable over Yamamoto U.S. Patent Number 5,991,030. Reconsideration is requested.

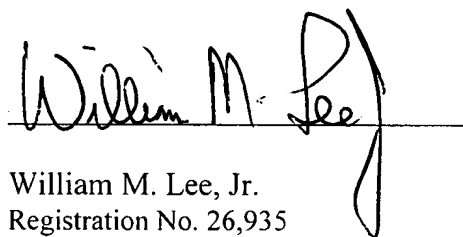
In Yamamoto the apparatus is specifically designed for scanning a pattern emitted from a planar sample (see for example, column 1, lines 6-9 and column 2, lines 63-67). A continuous planar sample cannot be said to have a numerical aperture to which a fiber optic bundle can be matched by an imaging device. Yamamoto could not, therefore, be said to disclose or suggest such a concept, which is claimed in claim 1.

Also in the office action, the examiner asserts that the lens 25 shown in figure 10 of Yamamoto corresponds to the "additional optical imaging device" claimed in claim 1. However, the numerical aperture of condenser unit 4 in that figure is apparently determined by the lens 21 rather than the lens 25. It is therefore submitted that there is no correspondence to "additional optical imaging device" in Yamamoto as that term is used in claim 1 of the present invention.

It is therefore submitted that claim 1 is in proper form and is allowable over Yamamoto. The remaining claims, which depend directly or indirectly from claim 1 (and are all properly in the application), are submitted to be allowable as well.

The examiner's further and favorable reconsideration of the application is therefore urged. Should any matters remain for consideration, the examiner is requested to telephone the undersigned to see if the handling of the application can be expedited.

Respectfully submitted,

A handwritten signature in black ink, reading "William M. Lee, Jr.", is written over a horizontal line. The signature is stylized, with the first letters of the first and last names being capitalized and prominent.

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William M. Lee, Jr.
Registration No. 26,935
Barnes & Thornburg LLP
P.O. Box 2786
Chicago, Illinois 60690-2786
(312) 214-4800
(312) 759-5646 (fax)